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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:)	
)	
Implementation of the)	CC Docket No. 96-150
Telecommunications Act of 1996:)	
)	
Accounting Safeguards Under the)	
Telecommunications Act of 1996)	

SNET REPLY TO OPPOSITIONS TO ITS PETITION FOR
LIMITED RECONSIDERATION

The Southern New England Telephone Company (SNET) respectfully submits this Reply to Oppositions filed in response to its Petition for Limited Reconsideration (Petition) of the Report and Order adopted by the Federal Communications Commission (Commission) in this proceeding.¹

I. INTRODUCTION

In its Petition, SNET only seeks a limited expansion of the exception from the market valuation of services provided to a Local Exchange Carrier (LEC) by an affiliate. As ordered, the exception would apply only to those LECs which have an affiliate that exists solely to provide such services. SNET requests that the Commission expand this exception to include those situations where a LEC, such as SNET, provides services exclusively for itself and its corporate family. In providing services to its corporate family, SNET functions, in effect, as a service company, with the same intent expressed in paragraph 148 to provide services solely to corporate affiliates. As a result, significant

¹ In the Matter of Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996, CC Docket No. 96-150, Report and Order, released December 24, 1996 (FCC 96-490) (Report and Order).

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benefits accrue to subscribers through economies of scale and scope. If this exception is not expanded to include LECs with such organizational structures, SNET would be subject to the valuation rules in Paragraph 147 and would thereby be unfairly disadvantaged and subject to burdensome market valuations, simply because its corporate operating structure does not qualify, literally, for the Paragraph 148 exception, even though it qualifies on a practical and operational level.

In their Comments/Oppositions to SNET's Petition for Limited Reconsideration, certain parties support the expansion of the exception while other parties oppose it.² The oppositions to the expansion of the exception disregard the merits of SNET's arguments in an obvious attempt to burden SNET, and other similarly situated LECs, with needless additional regulation. Furthermore, contrary to AT&T's implication,³ LECs are not, in any way, attempting to erode the effect of the Commission's accounting safeguards. Nor, as MCI states, is it "clear that the potential gain of determining whether fully distributed cost undervalues a transaction outweighs the cost of performing a fair market study."⁴ As described more fully below, expanding the exception from obtaining market valuations of services is appropriate and, therefore, the oppositions filed by AT&T, MCI and TRA should be rejected.

SNET should not be denied the benefits of the exception simply because of its corporate structure. To do so would unreasonably elevate form over substance. On a practical and operational level, SNET's corporate structure is indistinguishable from the

² BellSouth and Ameritech have filed comments supporting the extension of the exception. AT&T, MCI and Telecommunications Resellers Association (TRA) have filed comments opposing the extension of the exception.

³ AT&T Opposition at 2.

⁴ MCI Opposition at 2-3.

structures of carriers that qualify for the exception. The rationale underlying the exception is fully consistent with SNET's corporate structure. The burdens that the exception properly seeks to avoid will clearly be imposed on SNET absent relief.⁵ Granting limited reconsideration would further the deregulatory goals of the Telecommunications Act of 1996⁶ and thus serve the public interest.

II. AN EXPANSION OF THE EXCEPTION IS CONSISTENT WITH THE COMMISSION'S RATIONALE SUPPORTING THE EXCEPTION.

In the Report and Order, the Commission adopted a rule requiring LECs to record affiliate transactions that are neither tariffed nor subject to prevailing company prices at the higher of cost or estimated fair market value, when the LEC is the seller or transferor, and at the lower of cost or estimated fair market value, when the LEC is the buyer or transferee. In paragraph 148, the Commission provides an exception to the rule. This exception requires a LEC buying services from an affiliate that are neither tariffed nor subject to prevailing company prices to record such transactions at Fully Distributed Cost (FDC) when the affiliate exists solely to provide services to the LEC's corporate family.

With respect to this exception, the Commission reasoned that, when an affiliate is established to provide services solely to the LEC's corporate family, the benefits of economies of scale and scope are reflected in the affiliate's costs, and are ultimately passed along to subscribers through transactions with the LEC for services valued at FDC.⁷ An expansion of this exception is consistent with the Commission's rationale for

⁵ These burdens would be significant enough to require SNET to consider a reorganization of its service functions. While SNET is considering such a reorganization of its service functions in any event, reorganizations cannot be done overnight, and SNET would suffer loss of economies and needless administrative efforts during the interim.

⁶ Pub. L. No. 104-104, 110 Stat. 54 (1996).

⁷ Report and Order, para. 148.

supporting the exception. Specifically, SNET provides certain services to internal departments and unregulated affiliates, which are performed solely for members of its corporate family and are not offered or sold to unaffiliated parties. In such cases, SNET functions, in effect, as a service company and with the same intent expressed in paragraph 148, to provide services solely to corporate affiliates. As a result, significant benefits accrue to subscribers through economies of scale and scope.

III. LECS WOULD BE UNDULY BURDENED BY ATTEMPTING TO OBTAIN MARKET VALUATION INFORMATION.

SNET, and other similarly situated LECs, would face a significant burden in obtaining market valuation information for services that SNET performs exclusively for itself and its affiliates in order to satisfy this requirement. In order to produce this information, SNET would be required to devote a significant amount of resources to conduct the difficult and unnecessary (given the economies of scale and scope otherwise reflected in SNET's costs) task of determining the values from outside sources for services that would be direct substitutes for all current processes. As stated by BellSouth in its comments, "the requirement to perform fair market value studies in addition to fully distributed cost studies adds millions of dollars annually of administrative cost to the LECs with no appreciable consumer benefit."⁸ Furthermore, these additional expenses would be ultimately borne by subscribers. Expanding the exception in Paragraph 148 would allow SNET to avoid this unnecessary regulatory burden and thus support the deregulatory goals of the Act and the public interest.

⁸ BellSouth comments at 3.

IV. CONCLUSION

For the above reasons, SNET respectfully requests that the Commission reject the Oppositions filed by AT&T, MCI and TRA and approve SNET's Petition for Limited Reconsideration and extend the exception in Paragraph 148 to include those situations where a LEC such as SNET provides services exclusively for its corporate family.

Respectfully submitted,


THE SOUTHERN NEW ENGLAND
TELEPHONE COMPANY

By: Wendy S. Bluemling
Wendy S. Bluemling
Director - Regulatory Affairs
227 Church Street
New Haven, CT 06510
(203) 771-8514

April 16, 1997

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of April, 1997, a true copy of SNET's Reply To Oppositions To Its Petition for Limited Reconsideration, CC Docket No. 96-150, was sent via first class mail, postage prepaid or hand delivered to each of the parties listed below:


Melanie Abbott

Alan N. Baker
Ameritech
2000 West Ameritech Center Drive
Hoffman Estates, IL 60196

Mark C. Rosenblum
Peter H. Jacoby
Judy Sello
AT&T
295 North Maple Avenue
Basking Ridge, NJ 07920

Gene C. Schaerr
James P. Young
AT&T
1722 Eye Street, NW
Washington, DC 20006

Danny E. Adams, Steven A. Augustino
Kelley Drye & Warren, LLP
1200 19th Street, NW
Suite 500
Washington, DC 20036

Albert H. Kramer
Robert F. Aldrich
Dickstein Shapiro Morin & Oshinsky, LLP
2101 L Street, NW
Washington, DC 20036

Frank Moore
Smith, Bucklin & Associates, Inc.
1200 19th Street, NW
Washington, DC 20036

Herta Tucker
Assn. of Telemessaging Services Intl.
1200 19th Street, NW
Washington, DC 20036

Edward D. Young III
Michael E. Glover
Lawrence W. Katz
Bell Atlantic
1320 North Court House Road - Eighth Floor
Arlington, VA 22201

Joseph A. Klein
Michael S. Slomin
Bell Communications Research, Inc.
445 South Street
Morristown, NJ 07960

William B. Barfield
M. Robert Sutherland
BellSouth
1155 Peachtree Street, NE
Suite 1700
Atlanta, GA 30309

Peter Arth, Jr.
Edward W. O'Neill
Patrick S. Berdge
People of California and PUC of California
505 Van Ness Avenue
San Francisco, CA 94102

Jody B. Burton
GSA
Office of General Counsel
Washington, DC 20405

Gail L. Polivy
GTE
1850 M Street, NW
Suite 1200
Washington, DC 20036

Alan Buzacott
MCI
1801 Pennsylvania Avenue, NW
Washington, DC 20006

James D. Ellis
Robert M. Lynch
David F. Brown
SBC
One Bell Center - Room 3520
St. Louis, MO 63101

Charles D. Gray
James Bradford Ramsay
NARUC
1201 Constitution Avenue - Suite 1102
P.O. Box 684
Washington, DC 20044

Richard J. Arsenault
Drinker Biddle & Reath
901 15th Street, NW
Washington, DC 20005

David L. Meier
Cincinnati Bell
201 E. Fourth Street
P.O. Box 2301
Cincinnati, OH 45201

Richard McKenna, HQE03J36
GTE
P.O. Box 152092
Irving, TX 75015

Catherine R. Sloan
Richard L. Fruchterman
Richard S. Whitt
Worldcom, Inc.
1120 Connecticut Avenue, NW - Suite 400
Washington, DC 20036

Margaret E. Garber
Pacific Telesis Group
1275 Pennsylvania Avenue, NW
Fourth Floor
Washington, DC 20004

Eric Witte
Missouri PSC
P.O. Box 360
Jefferson City, MO 65102

David S.J. Brown
Newspaper Association of America
529 14th Street, NW
Suite 440
Washington, DC 20045

Marlin D. Ard
Lucille M. Mates
Pacific Telesis Group
140 New Montgomery Street
Room 1526
San Francisco, CA 94105

Durward D. Dupre
Jonathan W. Royston
SBC
One Bell Center - Room 3520
St. Louis, MO 63101

Sondra J. Tomlinson
U S WEST
1020 19th Street, NW
Suite 700
Washington, DC 20036

Ruth S. Baker-Battist
Voice Tel
5600 Wisconsin Avenue
Suite 1007
Chevy Chase, MD 20815

Genevieve Morelli
Competitive Telecommunications Assn.
1140 Connecticut Avenue, NW
Suite 220
Washington, DC 20036

Danny E. Adams
Steven A. Augustino
Andrea D. Prate
Kelley Drye & Warren, LLP
1200 19th Street, NW - Suite 500
Washington, DC 20036

Penny Rubin
NYDPS
Three Empire State Plaza
Albany, NY 12223

Leon M. Kestenbaum
Jay C. Keithley
Michael B. Fingerhut
Sprint
1850 M Street, NW - 11th Floor
Washington, DC 20036

Charles C. Hunter
Catherine M. Hannan
Hunter & Mow, PC
1620 I Street, NW
Suite 701
Washington, DC 20006

Albert Halprin
Joel Bernstein
Randall Cook
Halprin, Temple, Goodman and Sugrue
1100 New York Avenue, NW - Suite 650E
Washington, DC 20005

Mary McDermott
Linda Kent
USTA
Suite 600
1401 H Street, NW
Washington, DC 20005

Campbell L. Ayling
NYNEX
1111 Westchester Avenue
White Plains, NY 10604

Cynthia B. Miller
Florida PSC
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

Philip L. Verveer
John L. McGrew
Francis M. Buono
WILKIE FARR & GALLAGHER
1155 21 st Street, NW, STE. 600
Washington, DC 20036

Ann E. Henkener
Assistant Attorney General
Public Utilities Section
180 East Broad St.
Columbus, OH 43215

Michael K. Kellogg
Jeffrey A. Lamken
Kellogg, Huber, Hansen, Todd & Evans
1301 K Street, NW
Suite 1000 West
Washington, DC 20005

Dr. Lawrence Chimerine
Economic Strategy Institute
1401 H Street, NW
Suite 750
Washington, DC 20005

Steve King
Washington Utilities and Transportation Comm.
1300 S. Evergreen Park Drive, SW
P.O. Box 47250
Olympia, WA 98504

ITS
2100 M Street, NW
Suite 140
Washington, DC 20036